

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Michael McEarchen,

Plaintiff,

v.

Warden Joseph/FCI Bennettsville,

Defendant.

C/A No. 8:24-cv-3176-JFA-WSB

ORDER

Michael McEarchen (“Petitioner”), proceeding pro se, filed this action seeking habeas corpus relief under 28 U.S.C. § 2241. This matter is now before the court on Petitioner’s most recent request for an extension of time. (ECF No. 37). For the reasons discussed below, the motion is granted.

In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) (D.S.C.), the case was referred to the Magistrate Judge for initial review. Specifically, the Magistrate Judge conducted an initial review of Defendant’s motion for summary judgment (ECF No. 18). After warning Petitioner several times of the need to keep the court informed of his current address and granting Petitioner additional time to respond to the motion for summary judgment, Petitioner failed to respond. Thereafter, the Magistrate Judge assigned to this action issued a Report and Recommendation (“Report”) opining that this matter should be dismissed for lack of prosecution under Rule 41(b) or, in the alternative, for failure to exhaust. (ECF No. 34).

Shortly after the Report was filed, the court received the instant motion wherein Petitioner requests 45 days to respond to the motion for summary judgment. Within the

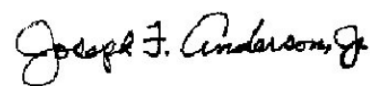
motion, Petitioner explains that he has recently undergone several transfers and had the receipt of his mail and legal materials delayed by several weeks. (ECF No. 37). Specifically, Petitioner avers that he did not receive the court's January 24, 2025, order, which established a response deadline of February 14, 2025, until February 18, 2025.

Petitioner, now seeks a 45-day extension to respond to the motion for summary judgment.¹ Given the delays caused by Petitioner's numerous transfers, the court finds good cause for the extension requested. Accordingly, the court grants Petitioner an additional 45 days to file a response to the motion for summary judgment. Petitioner has until April 21, 2025, to file a response to the Defendant's motion for summary judgment. Given the numerous extensions already granted, any future extensions will be greatly disfavored.

Because Petitioner has indicated a willingness to continue in his prosecution of this action, the court declines to adopt the Report.² This matter is recommitted back to the Magistrate Judge for further proceedings.

IT IS SO ORDERED.

March 6, 2025
Columbia, South Carolina



Joseph F. Anderson, Jr.
United States District Judge

¹ The Report was mailed out to Petitioner one day prior to the court's receipt of the instant motion. Accordingly, the court assumes that Petitioner has yet to receive the Report which recommends a dismissal for failure to prosecute.

² The Report alternatively recommends the action be dismissed for failure to exhaust administrative remedies. The Magistrate Judge came to this conclusion based on Respondent's motion for summary judgment without the benefit of Petitioner's response. Because Petitioner has now been given an extension to respond to that motion, the court declines to adopt the Report's alternative recommendation.